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P/4309-81

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Michel Gielis

Date: February 2, 2005

U.S. National Phase of PCT/EP2003/07130

International Filing Date: 12 June 2003

Serial No.: 10/517,736

For: CONTROL AND/OR MONITORING DEVICE USING AN ELECTRONIC LABEL, A  
READER AND A STATE ENCODER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

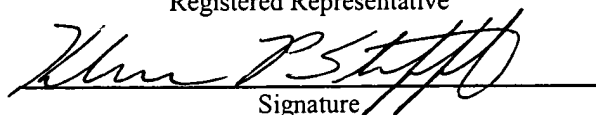
SUBMISSION

Sir:

Applicant submits herewith an English language translation of the PCT International Preliminary Examination Report for the above-identified application. The PCT International Preliminary Examination Report was submitted in the French language along with the U.S. national phase application on December 9, 2004.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 2, 2005:

Klaus P. Stoffel

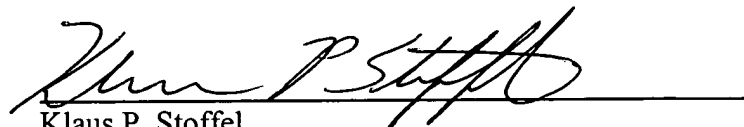
Name of applicant, assignee or  
Registered Representative  
Signature

February 2, 2005

Date of Signature

KPS:ck  
Enclosure

Respectfully submitted,

  
Klaus P. Stoffel

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## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Translation

|   |  |   |
|---|--|---|
| Applicant's or agent's file reference<br>IP 1507  | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) |   |
| International application No.<br>PCT/EP2003/007130  | International filing date (day/month/year)<br>12 juin 2003 (12.06.2003)  | Priority date (day/month/year)<br>13 juin 2002 (13.06.2002) |
| International Patent Classification (IPC) or national classification and IPC<br>G06K 7/00 |  |   |
| Applicant<br>INVENTIO AG  |  |   |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 1 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

|  |  |
|--|--|
| Date of submission of the demand<br>13 janvier 2004 (13.01.2004) | Date of completion of this report<br>27 July 2004 (27.07.2004) |
| Name and mailing address of the IPEA/EP                          | Authorized officer   |
| Facsimile No.  | Telephone No.  |

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/007130

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

☐ the international application as originally filed

☒ the description: \_\_\_\_\_, as originally filed  
 pages 1-15  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

☒ the claims: \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages 1, 2, filed with the letter of 02 June 2004 (02.06.2004)

☒ the drawings: \_\_\_\_\_, as originally filed  
 pages 1/2 - 2/2  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

☐ the sequence listing part of the description: \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.  
 These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_  
☐ the claims, Nos. \_\_\_\_\_  
☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

## 1. Statement

|                               |        |       |     |
|-------------------------------|--------|-------|-----|
| Novelty (N)                   | Claims | _____ | YES |
|                               | Claims | _____ | NO  |
| Inventive step (IS)           | Claims | _____ | YES |
|                               | Claims | _____ | NO  |
| Industrial applicability (IA) | Claims | _____ | YES |
|                               | Claims | _____ | NO  |

## 2. Citations and explanations

See supplemental sheet.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

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## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

|                               |        |      |     |
|-------------------------------|--------|------|-----|
| Novelty (N)                   | Claims | 1, 2 | YES |
|                               | Claims |      | NO  |
| Inventive step (IS)           | Claims | 1, 2 | YES |
|                               | Claims |      | NO  |
| Industrial applicability (IA) | Claims | 1, 2 | YES |
|                               | Claims |      | NO  |

## 2. Citations and explanations

## 1. Reference is made to the following documents:

D1: US-A-5 594 448

D4: WO-A-01 18694

D4 was not cited in the international search report.

2. D1 discloses an inspection device for determining the position of a label (13) relative to the antenna (11) of a reader (see figure 2). According to the text in column 5, lines 21 to 30, the position of the label (13) is obtained using the first sixteen bits sent by the label. Said sixteen bits are transmitted before the identification code. The identification code is implicitly stored in a memory of the label. Furthermore, the label is supplied with electrical energy by the reader electromagnetically (see column 4, lines 16 to 23).

2.1 It follows that all the features of the preamble of claim 1 are known from D1.

2.2 Furthermore, in D1 there is a "status encoder" (label position detector), which produces a status signal (relative position of the label to the

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reader) representing a digital or analog status affecting the label and the reader.

2.3 The first feature of the characterising part of claim 1 is therefore also known from D1.

2.4 However, D1 does not suggest a status encoder including a permanent magnet borne by the electronic label and a magnetic field sensor borne by the reader.

3. D4 discloses (see figure 5, for example) an inspection and monitoring device including a label (400), referred to as a "logger", and a server (410). The label (logger) measures, for example, pressure (see page 6, line 15) and is capable of electromagnetically transmitting (by radio) data corresponding to pressure to the server (see page 7, lines 10 to 16 and figure 5). The label implicitly comprises a memory storing an identification code, which is read by the server (see page 7, lines 16 to 18). Furthermore, figure 5 (see the words "charge for reading logger") clearly shows that the reader (server 410) electromagnetically supplies the label (400) with electrical power.

3.1 It follows that the features in the preamble of claim 1 are known from D4.

3.2 However, D4 does not suggest a status encoder producing a status signal representing a status affecting the interactive units (the label and the server). Furthermore, D4 does not suggest the permanent magnet and the magnetic field sensor mentioned in the characterising part of claim 1.

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3.3 Claim 1 thus meets the requirements of PCT Article 33(2) and (3).

4. Claim 2 is dependent on claim 1 and thus also meets, as such, the PCT requirements of novelty and inventive step.

**Defects in the international application**

5. Contrary to the requirement of PCT Rule 5.1(a)(ii), the relevant prior art disclosed in D1 and D4 has not been indicated in the description, nor have said documents been cited therein.

5.1 The text of the description (see pages 1 to 5) is not consistent with that of the new claims.

5.2 Independent claim 1 has not been correctly drafted in the two-part form, with regard to D1, as required by PCT Rule 6.3(b). On this point, see paragraphs 2 to 2.3 above.

5.3 Furthermore, according to claim 1, the status signal (STAT) represents a status affecting **the units** of the first pair of interactive units (see lines 11 to 12). The status signal cannot therefore represent a pressure and is not a status affecting the label (1) alone. Consequently, the text on page 8, lines 21 to 35 should be amended accordingly.